IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE A.GOPAL REDDY
WRIT PETITION NO: 16865 of 2004

Between:
Ch. Murali, S/o Ch. Yadagiri,
R/o Alair, Nalgonda District.

...
PETITIONER

AND

1 Government of Andhra Pradesh, rep. by the Principal Secretary, Panchayat Raj Department, Secretariat, Hyderabad.
2 The District Collector, (PW) Nalgonda.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order, or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the Respondent No.1 herein in not passing orders staying the operation of the order of 2nd Respondent herein passed on Proc.No. 321/04-A1 (PTS) dated 21-8-2004 by exercising powers u/s 264 (2) of the A.P. Panchayat Raj Act, 1994, as illegal and arbitrary and consequently stay the operation of the above said order of 2nd Respondent herein and grant such other further relief in the interest of justice.

Counsel for the Petitioner: MR.NOUSHAD ALI

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court at the admission stage made the following:

ORDER:

By the impugned proceedings dated 21-08-2004, the Collector (PW) after taking into consideration the explanation offered by the petitioner to the show cause notice issued on

17-05-2004, having not satisfied, suspended the petitioner for a period of three months from the post of Sarpanch for the financial irregularities of the 16 charges framed out of 21 in the show cause notice and appointed the District Panchayat Officer as Enquiry Officer to conduct regular enquiry into the 16 charges out of 21, which are found *prima facie* against the petitioner and directed him to submit a report within one month for taking further action.

2. Aggrieved by the same, petitioner filed revision before the Government, which was entertained by it in Memo No.8901/Pts.II/A1/2004-1, Dated 04-09-2004 and called for the records and report from the District Collector. In view of the same, the petitioner filed the present Writ Petition stating that though the Government called for the records in the revision filed by him, failed to stay the impugned order. In the result, the revision will become infructuous after expiry of 3

months period.

3. Learned counsel for the petitioner, placing reliance on a judgment of the Apex Court in ***Sri Kihota Hollohon Vs. Mr. Zachilhu*** [1] contends that revision cannot be made infructuous without suspending the order under revision. Reliance placed by the learned counsel is not relevant to the facts of the present case since the Collector *prima facie* found 16 charges out of 21 against the petitioner requires regular enquiry. In view of the same, once the matter is pending revision, writ petition for the very same relief cannot be entertained as held by the Apex Court in
1995 (1) SCC 642.

4. I see no ground to entertain this Writ Petition and it is accordingly dismissed. No costs. However, the District Collector shall ensure that the District Panchayat Officer conducts the enquiry and submits his report within a period of three months from the date of receipt of a copy of this order enabling him to take further action pursuant to the proceedings.

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A. GOPAL REDDY, J

September 20, 2004
MRR

To:

1. The Principal Secretary, Government of Andhra Pradesh, Panchayat Raj Department, Secretariat, Hyderabad.
2. The District Collector, (PW) Nalgonda.
3. Two C.Cs to Gp For Panchayat Raj & Rural Development, High Court Buildings, Hyderabad. (OUT).
4. Two C.D. copies.

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[1] AIR 1993 SC 412